

California Regional Water Quality Control Board
North Coast Region

CLEANUP AND ABATEMENT ORDER NO. R1-2002-0056
FOR

MERCER, FRASER COMPANY
AND
CANEVARI TIMBER COMPANY, INCORPORATED

Humboldt County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), finds that:

1. Canevari Timber Company, Incorporated, owned and operated a gravel mining and processing plant, and an asphalt plant adjacent to the east bank of the lower Eel River in Fortuna, Humboldt County. The facility is located in the southwest ¼ section 35, T3N, R1W of the Humboldt Base & Meridian.
2. On May 28, 1992, the Regional Water Board issued Waste Discharge Requirements, Order No. 92-64, to Canevari Timber Company, Incorporated to regulate the management of petroleum-contaminated soil before incorporation into asphalt. Soils were to be transported to the plant during dry weather conditions, temporarily stockpiled on a mixing pad, and processed and incorporated into asphalt.
3. Order No. 92-64 provides that "The maximum containment time for the soils from transportation time to the plant and processing into asphalt will be one week. The maximum amount of soils on the pad prior to processing will be 3,200 cubic yards."
4. Staff inspections during 1996 and 1997 indicated that contaminated soil was present on the pad and no soil was processed during that period. These conditions violate, and threaten to violate, Order No. 92-64, Section A 'Prohibitions' Items 1 and 8, and Section C 'Noncompliance' Items 3 and 9.
5. On June 1, 1996, the Mercer, Fraser Company purchased all equipment and existing stockpiles, including the asphalt plant and petroleum-containing soil from Canevari Timber Company, Incorporated. Canevari Timber Company, Incorporated, retains ownership of the land and leases the property to Mercer, Fraser Company. Mercer, Fraser Company and Canevari Timber Company, Incorporated, are hereinafter referred to as the discharger.

6. The Regional Water Board adopted Cleanup and Abatement Order No. 98-66 on May 21, 1998, which imposed the following requirements on the discharger:
 - a. Prepare and submit a plan and schedule to process petroleum-containing soil into asphalt by June 15, 1998. It required that the plan include operational activities to prepare soil as well as any physical structures and management protocols necessary for protection of water quality.
 - b. Submit a status report presenting the amount of soil incorporated into asphalt, the volume of asphalt produced, purchaser of the asphalt and location of the asphalt, and the stockpile volume remaining to be processed by May 15, 2000. It required that the report discuss the viability of the soil incorporation activities for both public and private projects.
 - c. Submit a final report by November 1, 1999, documenting that all petroleum-containing soil had been processed or a proposal for removing all soil from the site by December 1, 1999.
7. Cleanup and Abatement Order No. 98-66 contained provisions allowing the discharger to request, in writing, time extensions for submitting the specified items. The discharger did not submit any extension requests.
8. During an inspection conducted on December 6, 2001, Regional Water Board staff noted a substantial amount of petroleum-containing soil remaining on site. The soil was covered thoroughly with plastic. Representatives from Mercer, Fraser Company estimated the volume of the soil to be between 3,000 to 4,000 cubic yards.
9. The existing and potential beneficial uses of The Eel River include:
 - a. Municipal and domestic supply
 - b. Agriculture supply
 - c. Industrial service supply
 - d. Groundwater recharge
 - e. Navigation
 - f. Hydropower Generation
 - g. Water contact recreation
 - h. Noncontact recreation
 - i. Commercial and sport fishing
 - j. Warm freshwater habitat
 - k. Cold freshwater habitat
 - l. Wildlife habitat
 - m. Preservation of rare, threaten or endangered species

- n. Fish migration
- o. Fish spawning
- p. Estuarine habitat
- q. Aquaculture

10. Beneficial uses of area groundwater include:

- a. Domestic water supply
- b. Agricultural water supply
- c. Industrial supply

11. The discharger has not adhered to the requirements set forth in Cleanup and Abatement Order No. 98-66. Existing conditions at the discharger's facility continue to violate Waste Discharge Requirements, Order No. 92-64.

12. Section 13304(a) of the Porter-Cologne Water Quality Control Act in part states:

"Any person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts."

13. Pursuant to Sections 15321 and 15308, Title 14, California Code of Regulations, this action is exempt from the California Environmental Quality Act (CEQA, Public Resources Code Section 21000 et seq.) as an enforcement action to protect the environment.

THEREFORE, IT IS HEREBY ORDERED that Cleanup and Abatement Order No. 98-66 is rescinded and, pursuant to California Water Code Sections 13267(b) and 13304, the discharger shall cleanup and abate violations and threatened violations of Order No. 92-64 and shall comply with the following provisions of this Order:

1. By June 14, 2002, the discharger shall prepare and submit a plan and schedule detailing the process for removing the petroleum-containing soil from the site. If the soil is to be incorporated into asphalt, the plan shall include operational activities to prepare soil as well as any physical structures and management protocols necessary for protection of water quality.
2. By August 1, 2002, the discharger shall submit a status report presenting the progress of soil removal from the facility. If the soil is incorporated into asphalt, the status

report shall include the amount of soil incorporated to asphalt, the volume of asphalt produced, purchaser of the asphalt, asphalt destination location, and the petroleum-containing soil stockpile volume remaining.

3. By November 15, 2002, the discharger shall submit a final compliance report delineating the measures that were taken to remove all petroleum-containing soil from the site.

Susan A. Warner, Executive Officer

Ordered by _____

Robert L. Tancreto

Supervising Water Resources Control Engineer

May 8, 2002